IN THE MATTER OF A PETITION FOR CLARIFICATION OF AN APPROPRIATE UNIT
June 5, 1992

Inter-Faculty Organization, St. Paul, Minnesota
- and -
Minnesota State University System, St. Paul, Minnesota
- and -
Minnesota State University Association of Administrative and Service Faculty, Mankato, Minnesota

BMS Case No. 92-PCL-2142

PREPARED BY: Janet L. Johnson,
Representation Specialist

UNIT CLARIFICATION ORDER

INTRODUCTION

On May 26, 1992, the State of Minnesota, Bureau of Mediation Services (Bureau), received a Letter of Understanding, signed by Ms. Mary Hickerson, President, on behalf of the Inter-Faculty Organization, St. Paul, Minnesota (IFO); Mr. Richard Wheeler, President, on behalf of the Minnesota State University Association of Administrative and Service Faculty, Mankato, Minnesota (MSUAASF); and Mr. Craig M. Ayers, Associate Vice-Chancellor, on behalf of the Minnesota State University System, St. Paul, Minnesota (Employer).

STIPULATION OF THE PARTIES

As evidenced by the signing of the Letter of Understanding, the parties agree to abide by the criteria outlined in the Letter of Understanding (attached hereto) in determining the proper bargaining unit assignment of employee classifications under Minn. Stat. 179A.10, Subd. 4.
FINDINGS AND ORDER

1. The Stipulation of the Parties is appropriate.

2. The Bureau shall use the agreed to standards in processing unit clarification requests under Minn. Stat. 179A.10, Subd. 4.

STATE OF MINNESOTA
Bureau of Mediation Services

PETER E. OBERMEYER,
Commissioner

cc: Mary Hickerson
Craig Ayers
Nancy McClure
Richard Wheeler
Letter of Understanding

MINNESOTA STATE UNIVERSITY SYSTEM

Unit Determination Criteria -- Typical Position Duties
IFO/MSUAASF/EXCLUDED within MSUS

The parties hereto have entered into the following letter of understanding as a means of providing guidance in determining the proper bargaining unit for placement of certain positions.

Purpose

These criteria provide a method to determining which unit is the primary unit when positions are a mixture of significant portions of work found in 2 or more units. They are not intended to modify the unit threshold requirements for inclusion in a bargaining unit found in Minnesota Statutes, 179A.03, Subd. 14, "Public Employee."

Basic Duty Statement

<table>
<thead>
<tr>
<th>IFO</th>
<th>MSUAASF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Their primary duties involve classroom</td>
<td>Their primary duties include administration</td>
</tr>
<tr>
<td>teaching for credit generation, academic</td>
<td>and service functions to students, the</td>
</tr>
<tr>
<td>librarian tasks, academic counseling and</td>
<td>university, and the community.</td>
</tr>
<tr>
<td>academic advising (as defined below)</td>
<td></td>
</tr>
</tbody>
</table>

Counseling

<table>
<thead>
<tr>
<th>IFO</th>
<th>MSUAASF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Counseling</td>
<td>Counseling administration</td>
</tr>
<tr>
<td>Psychological counseling</td>
<td>Counseling Center management</td>
</tr>
<tr>
<td>Psychiatric counseling</td>
<td></td>
</tr>
</tbody>
</table>

Advising

<table>
<thead>
<tr>
<th>IFO</th>
<th>MSUAASF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic discipline related advising.</td>
<td>Non-academic discipline related advising.</td>
</tr>
<tr>
<td>Academic discipline progress advising.</td>
<td>Transfer advising</td>
</tr>
<tr>
<td>Academic discipline degree completion</td>
<td>Interpretation and Application of</td>
</tr>
<tr>
<td>advising.</td>
<td>established policy and procedure in advising.</td>
</tr>
<tr>
<td>Requirements for majors, minors and</td>
<td></td>
</tr>
<tr>
<td>graduation in an academic discipline</td>
<td></td>
</tr>
<tr>
<td>advising.</td>
<td></td>
</tr>
</tbody>
</table>
## Credit Generation/Teaching

**IFO**
Positions in which State of Minnesota Department of Education teacher licensure or certification is required.

**MSUAASF**
In service and skills teaching that is offered for no academic credit.

Positions which involve direct classroom teaching of fourteen (14) quarter hour credits per academic year.

May supervise a student in the completion of an internship or the practicum.

Teaching that generates credit hours.

Evaluation of satisfactory completion of an internship or practicum that is for credit.

## Tutoring

**IFO**
Director tutoring of student on an academic subject area.

**MSUAASF**
Tutoring administration and management.

Tutoring of skills that are not related to a specific academic discipline.

## Grants/Research

**IFO**
Research related to an academic discipline.

**MSUAASF**
Research not related to an academic discipline.

Administration of grants related to an academic discipline.

Grants related to administrative or service functions.

University research department administration and management.

## Coaching

**IFO**
All coaching responsibilities

**MSUAASF**
## Workload

**IFO**  
Normally defined in credit hours or equivalent for non-instructional or days academic work.  

**MSUAAASF**  
Normally defined in months or duty days.  

Normally work an academic year.  

Normally work a fiscal year.  

## Service

**IFO**  
Services that are discipline related teaching functions.  

**MSUAAASF**  
Provide direct services that are non-teaching and are not related to a particular academic discipline.  

## Administration

**IFO**  
Duties that contain functions which are an integral part of the academic department or program.  

**MSUAAASF**  
Budget control.  

May supervise staff other than IFO not to exceed forty-nine (49%) of the position duties.  

Personnel management and supervision of staff other than Excluded management and confidential staff.  

May include budget coordination of an academic department or program not to exceed forty-nine percent (49%) of the position duties.  

Plan, direct, and management of support department or programs.  

Manage university compliance with applicable laws and regulations.  

## Excluded Administrators & Excluded Professionals

Subject of the 51% rule, positions shall only be excluded administrative or excluded professional if:

### Excluded Administrator:

1. The position meets the managerial test in Minnesota Statutes 43A.02, Subd. 28: "...those positions designated pursuant to section 43A.18, subdivision 3 as being accountable for determining, securing and allocating human, financial, and other resources needed to accomplish objectives. Positions in this category also are accountable for determining overall objectives, priorities, and policies within a program area. Higher level positions in this category handle significant and involved
relationships with governmental leadership. Incumbents of these positions have the authority to exercise discretionary powers on a regular basis," and

2. The position creates or formulates, influences or manages policy or directs the enterprise, and

3. The position is responsible for making key operating decisions high up in the enterprise on an on-going basis, or specifically delegates them to others responsible to the position, and

4. The position does not devote significant amounts of time to approving leave, administering work schedules, or directing work procedures and regimens, or

5. The position is responsible for deciding or making administrative recommendations for tenure, promotion, non-renewal or permanency status of faculty and/or administrative and service faculty, or

6. The position manages academic and administrative and service faculty labor and employee relations.

**Excluded Professional:**

1. The position reports directly to the President or Chancellor, or to a Vice President, Associate or Assistant Vice President, Deputy or Vice Chancellor or Associate Vice Chancellor, Dean or Provost, and provides confidential advice to the Board, the Chancellor, the President or Provost, and serves on the system or, campus management team performing duties which involves significant discretion and substantial involvement in the development, interpretation and implementation of academic policy, and requires loyalty and compatibility with the Chancellor, President or Provost.

**Implementation**

These Unit Determination Criteria shall not result in the removal of any current employee from his/her current Unit assignment, but shall be used to determine unit placement upon replacement of any position after adoption of these criteria by the Minnesota Bureau of Mediation Services.

**Assignment of Duties from Another Unit**

Employees of the unit represented by IFO or by MSUAASF, administrator and excluded professional unit, or the excluded, may be assigned duties that would normally be assigned to employees in another unit. If the non-primary unit assigned duties exceed 49% of the position duties, then the position shall be reviewed by the two units involved and the Chancellor's Office representative to determine whether duties should be removed or percentages assigned reduced, or whether it should be placed in another unit.
As position duties get close to the 49% limit, a position will be re-evaluated to make sure that the position is assigned to the appropriate bargaining unit.

Every position must specifically state at least 51% of the duties that would place the position within a single bargaining unit.

**No Waiver**

None of the parties to this Agreement have in any way waived the right to request unit clarification or other action from the Minnesota Bureau of Mediation Services on any single position or positions to which the agreed-upon criteria is applied. Each party expressly reserves the right to challenge factual determinations relative to these criteria.

In Witness Thereof the Parties have set their Hands this ____ day of ___________, 1992.

**FOR the IFO:**

__________________________
Mary Hickerson, President     Dated:

**FOR MSUAASF:**

__________________________
Richard Wheeler, President    Dated:

**FOR the MSUS:**

__________________________
Craig M. Ayers, Associate Vice Chancellor  Dated:
Name of Petitioner: Inter-Faculty Organization
   Address: 412 Sherburne Ave., St. Paul, MN 55103 Phone: (612) 227-9541

Name of Representative: Mary Hickerson, President
   Address: Same as above

Name of Other Party: State University System
   Address: 555 Park St., Ste 230., St. Paul, MN 55102 Phone: (612) 296-2844

Name of Representative: Craig Ayers, Assoc. Vice Chancellor
   Address: Same As Above

Other Parties cc: Richard Wheeler, President
   MN State Univ Assn Admin & Service Faculty
   MS Box 30
   Mankato, MN 56002-8400
   507-389-1011

   Nancy McClure, Deputy Commissioner
   State of MN - DOER
   200 Centennial Office Bldg.
   658 Cedar St.
   St. Paul, MN 55155
   612-296-2516

Addendum: The Parties recognize that the current Personnel Plan for MnSCU Administrators
does not provide an appointment category for Excluded Professionals.